Applicant: Manev et al.
Serial No.: 10/675,695
Atty Docket: 060726.00023

REMARKS

After entry of the present amendment, claims 1 through 3, 5 through 13 and 15 through 20 will be pending in the application with claim 1 and 11 written in independent form. Claims 1, 5, 6, 11, 15, and 16 have been amended. Claims 4 and 14 have been cancelled.

Claim Rejections – 35 U.S.C. §102

Claims 1 through 2 and 11 through 16 stand rejected under 35 U.S.C. §102 (b) as being anticipated by the Japanese Publication No. 2002-203540 to Kiyohiko et al. (the *Kiyohiko reference*). The Applicant has amended independent claims 1 and 11 to overcome the Examiner's rejection. In particular, claims 1 and 11 were amended to further define the invention as originally claim. As amended, claim 1 is directed to a positive electrode material for a lithium-ion or lithium-ion polymer battery, having the formula $LiNi_xCo_yM_zO_2$ $LiOH)_k(Li_2CO_3)_m(LiHCO_3)_n$ wherein M is one or more transition metals different than Ni and Co, $X+Y+Z=1$, $X>0$, $Z<0.5$, $0.001<k+m+n<0.3$, and $k+n<0.1m$. Claim 11, as presently amended by the Applicant is directed to a lithium ion battery comprising a positive electrode material of the formula $LiNi_xCo_yM_zO_2$ $LiOH)_k(Li_2CO_3)_m(LiHCO_3)_n$ wherein M is one or more transition metals different than Ni and Co, $X+Y+Z=1$, $X>0$, $Z<0.5$, $0.001<k+m+n<0.3$, and $k+n<0.1m$.

In the present Office Action, the Examiner states that the *Kiyohiko reference* discloses a positive electrode content of Li_2CO_3 in a range of 0.001-0.3 where k and n is equal to 0. The *Kiyohiko reference fails to teach or suggest expressly or impliedly* the Applicant's battery comprising a positive electrode material of the formula $LiNi_xCo_yM_zO_2$ $LiOH)_k(Li_2CO_3)_m(LiHCO_3)_n$ wherein M is one or more transition metals different than Ni and Co, $X+Y+Z=1$, $X>0$, $Z<0.5$, $0.001<k+m+n<0.3$, and $k+n<0.1m$, as set forth in currently

6

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amended claims 1 and 11.

Claim Rejections – 35 U.S.C. §103

Claims 7 through 10 and 17 through 20 stand rejected under 35 U.S.C. §102(b) as being anticipated by or, in the alternative, under 35 U.S.C. §103 (a) as being obvious the *Kiyohiko reference.* Claims 7 through 10 and 17 through 20 are dependent claims dependent upon the independent claims 1 and 11, respectively. In light of the aforementioned amendments to claims 1 and 11, the Applicant believes that these rejections are now moot.

The Commissioner if hereby authorized to charge the amount of $125.00 to Deposit Account No. 08-2789 to cover the fee associated with a one (1) month extension of time ($60.00) as set forth in 37 CFR 1.17(a)(1) and the Terminal Disclaimer fee of $65.00.

This application is now in condition for allowance, which allowance is respectfully solicited. Applicant believes that no additional fees are required, however, the Commissioner is authorized to charge our Deposit Account No. 08-2789 for any additional fees or credit the account for any overpayment.

Respectfully submitted,

HOWARD & HOWARD ATTORNEYS P.C.

February 19, 2007
Date

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7